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STATUTORY INSTRUMENTS

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**2013 No. 602**

**The Police and Fire Reform (Scotland) Act 2012  
(Consequential Provisions and Modifications) Order 2013**

**PART 2**

**POLICE**

**Agreements to investigate serious incidents**

3.—(1) The Commissioner and the British Transport Police Authority may enter into an agreement for the Commissioner to investigate and report, where requested to do so by that Authority or the chief constable of the British Transport Police Force, on any serious incident involving the British Transport Police Force.

(2) A “serious incident involving the British Transport Police Force” has the same meaning as a “serious incident involving the police” in section 41B of the 2006 Act<sup>(1)</sup> except that “a person serving with the police” means a constable of the British Transport Police Force and any other persons specified in the agreement who serve with that Force or who are employed by the British Transport Police Authority.

(3) The Commissioner and the Civil Nuclear Police Authority may enter into an agreement for the Commissioner to investigate and report, where requested to do so by that Authority or the chief constable of the Civil Nuclear Constabulary, on any serious incident involving the Civil Nuclear Constabulary.

(4) A “serious incident involving the Civil Nuclear Constabulary” has the same meaning as a “serious incident involving the police” in section 41B of the 2006 Act except that “a person serving with the police” means a member of the Civil Nuclear Constabulary and any other persons specified in the agreement who serve with that Constabulary or who are employed by the Civil Nuclear Police Authority.

(5) The Commissioner and the Secretary of State may enter into an agreement for the Commissioner to investigate and report, where requested to do so by the chief constable of the Ministry of Defence Police, on any serious incident involving the Ministry of Defence Police.

(6) A “serious incident involving the Ministry of Defence Police” has the same meaning as a “serious incident involving the police” in section 41B of the 2006 Act except that “a person serving with the police” means a member of the Ministry of Defence Police.

(7) The Commissioner and SOCA may enter into an agreement for the Commissioner to investigate and report, where requested to do so by SOCA, on any serious incident involving SOCA.

(8) A “serious incident involving SOCA” has the same meaning as a “serious incident involving the police” in section 41B of the 2006 Act except that “a person serving with the police” means a member of the staff of SOCA.

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(1) Section 41B was inserted by section 64 of the Police and Fire Reform (Scotland) Act 2012 ([asp 8](#)) (the “2012 Act”).

(9) The Commissioner and the Commissioners for Her Majesty's Revenue and Customs may enter into an agreement for the Commissioner to investigate and report, where requested to do so by the Commissioners for Revenue and Customs, on any serious incident involving Her Majesty's Revenue and Customs.

(10) A "serious incident involving Her Majesty's Revenue and Customs" has the same meaning as a "serious incident involving the police" in section 41B of the 2006 Act except that "a person serving with the police" means an officer of Revenue and Customs, but only when acting in the exercise of such enforcement functions as may be specified in an agreement made under paragraph (9).

(11) The Commissioner and the Secretary of State may enter into an agreement for the Commissioner to investigate and report on any serious incident involving an immigration officer or an official of the Secretary of State carrying out functions relating to immigration or asylum.

(12) A "serious incident involving an immigration officer or an official of the Secretary of State carrying out functions relating to immigration or asylum" has the same meaning as a "serious incident involving the police" in section 41B of the 2006 Act except that "a person serving with the police" means an immigration officer or an official of the Secretary of State carrying out functions relating to immigration or asylum, but only when acting in the exercise of such enforcement functions as may be specified in an agreement made under paragraph (11).

(13) An agreement made under paragraph (11) of this article must not establish and maintain procedures in relation to complaints about the exercise by any person of a function conferred on him by or under Part 8 of the Immigration and Asylum Act 1999<sup>(2)</sup>.

(14) The Commissioner and the Secretary of State may enter into an agreement for the Commissioner to investigate and report on a serious incident involving a general customs official.

(15) A "serious incident involving a general customs official" has the same meaning as in section 41B of the 2006 Act except that "a person serving with the police" means a general customs official or any other person exercising general customs functions under the authority of the Secretary of State or the Director of Border Revenue, but only when acting in the exercise of such enforcement functions as may be specified in an agreement under paragraph (14).

(16) The Commissioner and the Director of Border Revenue may enter into an agreement for the Commissioner to investigate and report on a serious incident involving a customs revenue official.

(17) A "serious incident involving a customs revenue official" has the same meaning as in section 41B of the 2006 Act except that "a person serving with the police" means a customs revenue official or any other person exercising customs revenue functions under the authority of the Director of Border Revenue, but only when acting in the exercise of such enforcement functions as may be specified in an agreement made under paragraph (16).

(18) An agreement made under this article is not to be made, varied or terminated without the approval of—

- (a) the Scottish Ministers in a case where—
  - (i) the Secretary of State is a party to the agreement; or
  - (ii) the agreement is made under paragraph (9); and
- (b) in all other cases, the Secretary of State and the Scottish Ministers.

(19) Where the Commissioner enters into an agreement under this article, for the purposes of section 33A of the 2006 Act<sup>(3)</sup> the Commissioner is to be regarded as having the functions set out in the agreement.

(20) An agreement made under this article—

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(2) 1999 c.33.

(3) Section 33A was inserted by section 62 of the 2012 Act.

- (a) may specify types or categories of serious incident which may or may not be investigated and reported on by the Commissioner;
- (b) may make different provision for different purposes or circumstances;
- (c) include provision for payment to the Commissioner for any function which the Commissioner may exercise under it;
- (d) may make provision only in relation to Scotland.